

United States District Court
Western District of New York

Kevin Ashby,
Plaintiff

-against-

John and/or Jane Doe(s)
(in their professional and individual capacity), &
American Bankers Insurance aka Assurant, Inc.,
Defendants.

Index No:
Filed:

17 CV1001V
COMPLAINT

Here Comes Plaintiff, Kevin Ashby, proceeding Pro-Se, a layperson to the law, complaining of the Defendants herein, setting forth and alleging as follows:

PARTIES

1. Plaintiff is a natural person. Plaintiff now resides at 1967 Niagara Street #207, Niagara Falls, NY 14303. At all times relevant to the matters complained of herein the Plaintiff resided at and worked from 1101 South Ave, Niagara Falls, NY 14305 and had a P.O. Box address of 256 3rd St. Suite 12 Box 107, Niagara Falls, NY 14301 in the county of Niagara, State of New York.
2. Defendant(s), John and Jane Doe(s) are natural persons and employees, representatives or agents of the Co-Defendant, insurance company, whose names are not presently known at this time but who engaged in wrongful and or illegal acts while performing their duties in their professional capacities.
3. Defendant, American Bankers Insurance aka Assurant, Inc. is an insurance company which is an incorporated entity whom the Plaintiff entered into a business relationship with by purchasing an insurance policy and whose employees, representatives or agents engaged in wrongful and or illegal acts violating the Plaintiff's rights. At all times

relevant to the matter complained of herein the Plaintiff was a former customer of the Defendant, American Bankers Insurance, whose headquarters are located at 28 Liberty Street, New York, NY 10005.

JURISDICTION

4. Pursuant to 28 U.S. Code § 1343 -this Court has direct jurisdiction as this complaint is brought forward under 42 U.S. Code § 1983 - Civil action for deprivation of rights as the Defendants conspired, colluded and cooperated with a peace officer acting under color of State.
5. Pursuant to 28 U.S. Code § 1331 -this Court also has jurisdiction, as there is federal question.
6. Pursuant to 28 U.S. Code § 1332- this Court also has jurisdiction due to the diversity of citizenship and the amount in controversy being over \$75,000.00.
7. Pursuant to 28 U.S. Code § 1343 – this Court also has original jurisdiction for this civil action brought forward under 42 U.S. Code § 1985 – deprivation of rights in furtherance of conspiracy and failure to prevent wrongs.
8. Pursuant to 28 U.S. Code § 1367 - this Court also has supplemental jurisdiction as to State claims that arise due to the same actions complained of herein.
9. For any other reason(s) this honorable Court may see fit to retain jurisdiction.

FACTUAL PLEADINGS

10. The Defendants conspired, colluded, collaborated and cooperated with James Murphy, a peace officer acting under color of State, working as an agent of the New York State Department of Financial Services, Insurance Fraud Division, to violate the Plaintiff's civil and constitutional rights.

11. On December 19, 2014, James Murphy received a CD from Defendant, American Bankers Insurance (ABI) which contained full indemnity account information about an insurance claim with a date of loss of June 23, 2009 filed by the Plaintiff, a former customer of ABI.

12. One or several John or Jane Doe(s) working for ABI corresponded with and fulfilled James Murphy's request for this insurance account information on or about December 9, 2014 through December 19, 2014.

13. The governmental peace officer's request was fulfilled and the record/CD of insurance and financial indemnity was sent by the Defendants in contravention to the Gramm-Leach-Bliley Act (GLBA).

14. The file requested was about a loss the Plaintiff experienced while residing in London, England, United Kingdom and was through a policy the Plaintiff purchased from the Defendant, ABI as resident or citizen of Omaha, Nebraska.

15. The Defendant's through administrative negligence and willful disregard for the Plaintiff's guaranteed citizenry rights assisted the said peace officer in violating many of the Plaintiff's civil and constitutional rights such as the right to privacy, the right to due process, equal protection under the law, the right to be free from unreasonable searches without warrant or due process, and other constitutional, civil and state rights.

16. The plaintiff was never served with "Notice" by the New York State Department of Financial Services as specifically required pursuant to 12 U.S.C. § 3401 et. seq., The Right to Financial Privacy Act of 1978 via 15 U.S.C. § 6802(e)(5).

17. James Murphy, then utilized this illegal obtained nonpublic personal information to falsely accuse and file felony criminal charges against the Plaintiff.

18. Mr. Murphy arrested the Plaintiff without warrant on or about January 26, 2015. The Plaintiff was wrongfully imprisoned for approximately 7 months, via charges laid by Mr. Murphy, based on the financial/insurance information that was illegally obtained from the Defendants.

19. The Defendants deprived the Plaintiff of his civil rights, failed to prevent civil rights Violations by disclosing Plaintiff's nonpublic personal information without regard for the law or due process and then further violated the Plaintiff's civil rights by having an agent of the Insurance Company testify about the record of indemnity at a criminal trial in January 2016.

20. The Plaintiff is a visible minority, Black man and a member of a protected class of peoples. The Defendants discriminatorily violated the Plaintiff's civil and constitutional rights due to racial prejudice, denying equal protection and due process in contravention to 42 U.S.C. § 1981.

21. The plaintiff has suffered loss of liberty, financial loss, personal property, loss of business property and loss of business income due to the conspiracy, colluding, negligence and wrongful acts of the Defendants

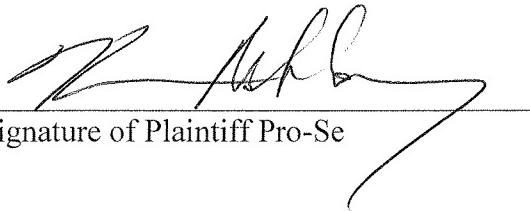
22. The plaintiff has suffered mental and emotional distress, economic loss and other irreparable harm due to the wrongful actions and negligence of Defendants.

RELIEF

WHEREFORE, Plaintiff demands \$3,000,000.00 U.S.D in monetary damages, including but not limited to actual, compensatory, consequential, nominal and collateral damages arising from this action along with punitive damages awarded at a jury trial together with

reasonable attorney fees, costs, disbursements, expenses, any and all other judgments this honorable Court deems fit to award arising from this action.

*Under Federal Rule of Civil Procedure 11, by signing below, I certify to the best of my knowledge, information, and belief that this complaint: (1) is not being presented for an improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation; (2) is supported by existing law or by a nonfrivolous argument for extending, modifying, or reversing existing law; (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and (4) the complaint otherwise complies with the requirements of Rule 11.


Signature of Plaintiff Pro-Se


Date of Signing

Kevin A. Ashby, MSHS MBA
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FROM:

KEVIN ASHBY
1967 NIAGARA STREET
#207
NIAGARA FALLS, NY 14303



TO:

U.S. District Court Clerk
200 U.S. Courthouse
2 NIAGARA SQUARE
Buffalo, New York

14202-3

Rea

Photo Document Mailer
9 3/4" x 12 1/4"